

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL JOHNSON,

Plaintiff,

-v-

D. KACHELMEYER, et al.,

Defendants.

DECISION and ORDER
03-CV-356S(Sc)

Before the Court is plaintiff's request for an extension of time to file a response to defendants motion for summary judgment because he is *pro se* and needs additional time to properly prepare a response to the motion. (Docket No. 45). Plaintiff also again moves for the appointment of counsel. Plaintiff's request for an extension of time hereby is granted and his motion for appointment of counsel is denied for the same reasons previously set forth in the Order of United States Magistrate Judge Hugh B. Scott denying plaintiff's earlier motion for the appointment of counsel. (Docket No. 27).

Plaintiff may have until **June 9, 2005** to file a response to defendants' motion for summary judgment.

Plaintiff is cautioned that if he fails to submit a response to defendants' motion for summary judgment by **June 9, 2005**, it may result in the grant of summary judgment to defendants and the dismissal of all or part of plaintiff's case. The Clerk of the Court is directed to forward another **Irby Notice** to plaintiff with this Order. See *Irby v. New York City Transit Authority*, 262 F.3d 412 (2d Cir. 2001).

SO ORDERED.

Dated: May 18, 2005
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge